

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CORTEZ DIGGS,

Defendant.

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CASE NO. 1:18-cr-00468

OPINION & ORDER
[Resolving Doc. [27](#)]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Finding that Defendant Cortez Diggs does not raise extraordinary and compelling reasons and the 18 U.S.C. § 3553 factors weigh against a sentence reduction, the Court **DENIES** Defendant's compassionate release motion.

In arguing extraordinary and compelling grounds for release, Defendant Diggs largely focuses on the ongoing COVID-19 pandemic.¹ Diggs—who suffers from asthma, immune deficiency, and has been diagnosed as pre-diabetic—was infected with COVID-19 in 2020.² He appears to have since recovered.³ The pandemic has also subjected him to harsh prison conditions.⁴

However, the Sixth Circuit has determined that “when the defendant has access to the COVID-19 vaccine, a defendant's incarceration during the COVID-19 pandemic does

¹ Doc. 27 at 6–9.

² *Id.* at 8.

³ *Id.*

⁴ *Id.* at 7.

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not present an ‘extraordinary and compelling reason’ warranting a sentence reduction.”⁵

Diggs has been fully vaccinated,⁶ and cannot overcome this Sixth Circuit limitation.

Diggs also puts forward his rehabilitative record.⁷ While Defendant’s efforts are commendable, Congress has barred the consideration of the “[r]ehabilitation of the defendant alone” as an extraordinary or compelling reason.⁸

The § 3553 factors also weigh against a sentence reduction. Defendant has served a relatively short portion of his below-Guidelines 170-month prison sentence.⁹ Given the repeat nature of Diggs’s offenses, the Court continues to find that its February 2019-imposed sentence is appropriate.

IT IS SO ORDERED.

Dated: February 4, 2022

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁵ *United States v. McCall*, 20 F.4th 1108, 1114 (6th Cir. 2021) (citing *United States v. Lemons*, 15 F.4th 747, 751 (6th Cir. 2021) (internal citations omitted).

⁶ Doc. 27 at 8.

⁷ *Id.* at 9–10.

⁸ 28 U.S.C. § 994(t); *United States v. Jones*, 980 F.3d 1098, 1109 n.16 (6th Cir. 2020).

⁹ Doc. 25 at 16.